

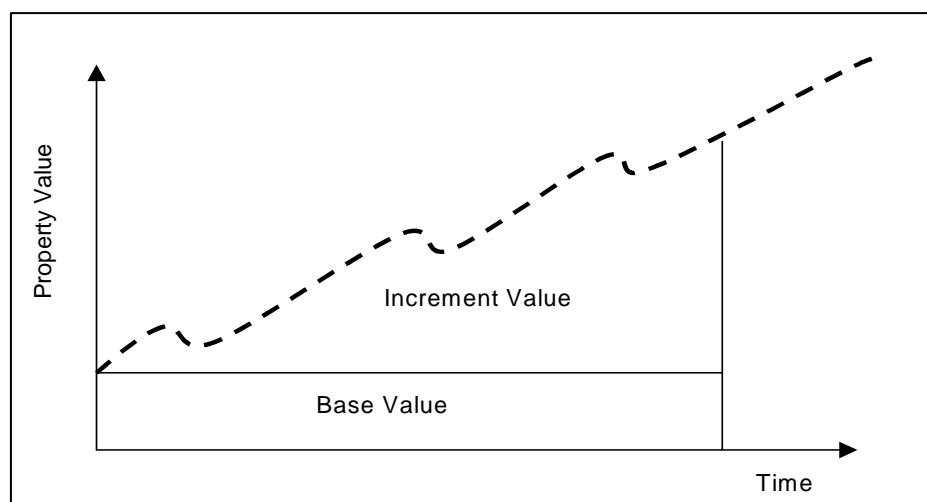
TAX INCREMENTAL FINANCE

A. PURPOSE OF TAX INCREMENTAL FINANCE

Tax Incremental Finance (TIF) is a financing tool available to cities, villages, and, to a limited extent, towns to encourage economic development that would not occur without some public assistance. A municipality may form a tax incremental financing district, subject to statutory limits and requirements, if the area is blighted, suitable for industrial or mixed-use development, or needs conservation, rehabilitation, or environmental remediation. A joint review board made up of representatives from the overlying taxing jurisdictions and a public member must approve the creation of the TIF district and its project plan.

When a TIF district is created, the current value in the district is set as "base value." Improvements and development that occur after the TIF district's creation lead to increases in its value over the base value (referred to as the increment value), as shown in the chart below. The property taxes levied by all taxing jurisdictions (i.e. the municipality, county, school district, technical college and any special districts) on the value increment are used to pay for the project costs needed for the development to occur. In this way, the cost of creating the district is not incurred solely by the municipality, but rather is shared by all taxing jurisdictions. The tax on the base value continues to go to the taxing jurisdictions that levy the tax. After a TIF district terminates, the taxes paid by property owners within the district – on both the base value and value increments – are shared by all taxing jurisdictions.

GRAPH 1
ILLUSTRATION OF TAX INCREMENTAL FINANCING MECHANISM

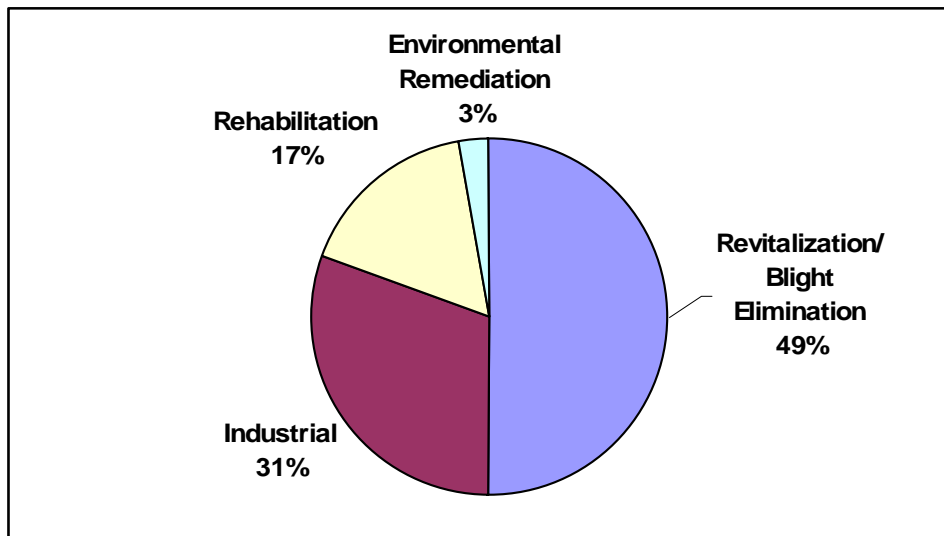


A total of 1,317 districts have been created from the inception of the TIF law in 1975. As of the beginning of the 2005, 818 are still active. Of the districts that terminated or dissolved,

the average life of a district was 12.4 years¹. Upon termination, these districts resulted in an increase of \$7.2 billion in taxable value. There are also additional eight active Environmental Remediation TIF districts, which make 826 total active districts.

The following chart profiles the types of TIF districts created in 2004. As Chart 1 shows, almost half of these TIF districts have been created for revitalization or blight elimination purposes. About 30% of recently created TIF districts were designed for industrial purposes.

CHART 1
PURPOSE OF RECENTLY CREATED TIF DISTRICTS, 2004



Source: Wisconsin Department of Revenue.

B. TYPES OF TIF DISTRICTS

The TIF law² requires a local legislative body to declare a single type for each TIF district as part of the resolution creating the TIF district. The four types of districts are "Blighted District", "Rehabilitation or Conservation District", "Industrial District", and "Mixed-use District". The declaration is based on the type of land that makes up at least 50% of the area in the district, or which of the four is predominant with regard to the area in the district.

Blight District: The TIF Law provides two specific meanings for the designation of a blight TIF district:

1. An "area in which the structures, buildings or improvements contribute to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime and are detrimental to the public health, safety, morals or welfare, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light air, sanitation or open spaces, high density population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes."
2. An "area which is predominantly open and which consists primarily of an abandoned highway corridor, or that consists of land upon which buildings or structures have been

¹ Wisconsin Department of Revenue, 2003.

² Applicable to cities and villages.

demolished and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community."

Statutes specifically exclude predominantly open land area developed for agricultural purposes from a "blighted area" definition.

Rehabilitation or Conservation District: Rehabilitation or Conservation districts are similar to blight districts. The statutes define "Rehabilitation or conservation work" as carrying out a program of repair and rehabilitation of buildings, or acquisition of real property to eliminate unhealthy, unsanitary or unsafe conditions, lessen density, or to reduce traffic hazards.

Mixed-use District: The law allows mixed-use TIF districts if 50% of the land is suitable for a combination of industrial, commercial or residential development, so long as no more than 35% of the proposed TIF district area is for newly-platted residential use. Costs of newly platted residential development are allowed to be reimbursed from the tax increment fund, but only for mixed use TIF districts and only if one of the following applies to residential housing: (1) density is at least 3 units per acre, (2) development is located in a conservation subdivision as defined in sec. 66.1027 (1) (a) ("a housing development in a rural setting that is characterized by compact lots and common space, and where the natural features of land are maintained to the greatest extent possible") or (3) development is located in a traditional neighborhood development as defined in sec. 66.1027 (1) (c) ("a compact, mixed-use neighborhood where residential, commercial and civic buildings are within close proximity to each other").

Industrial District: An industrial TIF district is a district suited for an industrial site. The area has to be zoned as industrial and has to remain zoned as such for the life of the district.

Town Districts: Beginning October 1, 2004, towns can establish tax increment financing districts. The TIF mechanism is essentially the same as for villages and cities with several limitations. Town TIF districts have only 5 years to make expenditures and the maximum life is 11 years after the last expenditure or 16 years, whichever comes first. Permitted project types are agricultural projects, forestry projects, manufacturing projects (that must relate to agricultural and forestry projects), and limited tourism. Residential and retail development related to the permissible project types may also be eligible.

Town TIF districts have the following territory limitation restrictions:

- the equalized value of the proposed TIF district and the equalized value of property in all existing TIF districts in the town cannot exceed 7% of the total equalized value of the town or
- the equalized value of proposed TIF district plus value increment of all existing TIF districts in the town cannot exceed 5% of the total equalized value of the town.

The statute provides that if a city or village annexes territory from a town TIF, the city or village has to pay to the town a portion of the project costs that are attributable to the annexed area. The city or village and town negotiate the amount. After annexation the Department of Revenue redetermines the tax increment base. Towns can amend the boundary of their TIF district once and only add parcel during the first 5 years. Written

notice of termination must be sent to the Department within 10 days of the termination resolution.

2005 Wisconsin Act 13³ allows towns to use city powers creating TIF districts if the town and a neighboring city or village have entered into a cooperative boundary agreement, the city approved TIF district creation, and the TIF district is located within territory that will be annexed.

Environmental Remediation TIF districts are discussed in Section F.

C. TIF DISTRICT REQUIREMENTS

There are two major time-lines for tax increment finance districts: expenditure period and maximum life period. Districts have only a certain number of years to make expenditures that can be reimbursed from the Tax Increment Fund. Table 1 summarizes expenditure periods and maximum life allowed for different types of TIF districts created in specified time periods.

**TABLE 1
SUMMARY OF TIF EXPENDITURE AND MAXIMUM LIFE PERIODS**

	Creation date	Expenditure period	Maximum life before extensions	Extensions allowed	Maximum life if extension granted
Existing TIF District	Before 10/1/95	22 years	27 years	No	27 years
Blighted or Rehabilitation	9/30/95 - 10/01/04	22 years	27 years	4 years	31 years
	After 10/01/04	22 years	27 years	3 years	30 years
Industrial or Mixed-Use	9/30/95 - 10/01/04	18 years	23 years	No	23 years
	After 10/01/04	15 years	20 years	3 years	23 years
Town TIF District	After 10/01/04	5 years	16 years	No	11 years after last expenditure or 16 years maximum
ER TIF	After 1997	15 years	16 years	No	16 years

Expenditures are allowed up to 5 years prior unextended maximum life.⁴ The municipality is responsible for any unpaid project costs at the time the TIF district terminates.

Eligible project costs have to be related directly to establishing and improving the TIF district. Examples of costs for TIF districts include capital improvements, financing, real property assembly, consulting and legal services, organizational activities, relocation, contributions and payments necessitated by the project plan, utility construction directly associated with the district, or the removal or containment of lead contamination. Improvements outside the TIF district can be eligible costs, but only to the extent that the improvement serves property in the district.

³ Effective June 22, 2005

⁴ Except for town TIF districts and ER TIF districts

The law prohibits cities and villages from using tax increments to provide cash grants to owners, developers, or lessees of land within the TIF district, unless the recipient of the grant has signed a "development agreement" with the city or village. Towns are prohibited from making cash grants.

Municipalities are limited to the amount of land that can be included in TIF districts. A city or village⁵ may create a new TIF district only if the equalized value of the taxable property within the newly-created district plus the value of increment of all existing TIF districts do not exceed 12% of the total equalized value of the municipality. Territorial limits are the same for newly created and amended TIF districts.

D. STEPS IN CREATING A TIF DISTRICT⁶

Planning: The creation of a TIF district begins when the planning commission of the municipality prepares a project plan that identifies the boundaries of the TIF district and describes the proposed public improvements and public costs, the financing methods to be used, and the economic feasibility of the TIF district. The municipality must then notify owners of property within the proposed TIF district and the overlying taxing jurisdictions of the public hearing to be held on the project plan and the district boundaries. The municipality must also provide Class 2 notices of the public hearing.

Resolution: After the public hearing, the planning commission adopts the TIF district plan and submits it to the governing body of the municipality, which creates the TIF district by resolution. The creation resolution must include the findings that 1) at least 50% of the property in the proposed TIF district is either blighted, in need of rehabilitation or is suitable for industrial or mixed use development; 2) the proposed improvements will significantly enhance the value of other property in the TIF district; 3) the project costs are consistent with the purpose of the district; and 4) the TIF district meets the territorial value limits previously described.

Joint Review Board (JRB): After the TIF district is created, the Joint Review Board approves the district based on the following criteria: 1) whether the expected TIF development would occur without the use of TIF (the board must make a positive assertion); 2) whether the economic benefits of the TIF in terms of increased employment, business and personal income and property value justify the TIF public costs; and 3) whether the benefits of the proposal outweigh the anticipated tax increments. Upon Joint Review Board approval, the municipality applies to the Department for certification of the TIF district base value. There are changes to the composition and role of Joint Review Board applicable from October 1, 2004. The law allows standing Joint Review Boards to review all proposed TIF districts and prescribes representatives to JRB from each taxing jurisdiction to include high level officials or their designees. JRB must notify special districts of any meetings. The law also allows shared Board representation in case of union high-school district.

Amendments: There are three types of amendments allowed for a TIF district: (1) a municipality may amend a TIF district boundary project plan up to four times during the life of district to either add and/or subtract territory, (2) a TIF district project plan may be amended any time during the expenditure period, and (3) a municipality may amend allocation of TIF increments between active districts. 2005 Wisconsin Act 6 counts an

⁵ Towns have different value limitations.

⁶ Applicable to cities and villages under sec. 66.1105.

amendment to a boundary project plan that both adds and subtracts territory as a single amendment towards the allowable maximum of four amendments to the district's boundaries. The steps required for amendment are similar to the creation procedures, with the Joint Review Board as the final step.

Tax Increment Allocations: The law allows pooling of TIF increments from one tax increment district to another. The Joint Review Board must approve the pooling. TIF districts created after October 1, 2004⁷ may allocate increments from one TIF district to another if the following conditions are met:

- The donor TIF district and the recipient district have the same overlapping tax jurisdictions.
- The allocation of tax increments is approved by the Joint Review Board.
- The donor TIF district has first satisfied all its current year debt service and project cost obligations.
- The project costs in the recipient TIF district are used to create, provide, or rehabilitate low-cost housing, or to remediate environmental contamination, or the recipient district is a "blighted area" or an "area in need of rehabilitation."

The city or village may not request an extension of the maximum life of a donor TIF district. Town TIF districts cannot make such allocations.

E. ROLE OF THE DEPARTMENT OF REVENUE

The Department's certification of the TIF district base establishes the beginning of the district's life. The Department reviews the project plan, the planning commission resolution, the municipal creation resolution, the joint review board resolution, the TIF district boundary descriptions and maps, parcel lists, proof of timely notices to affected property owners and other taxing jurisdictions, and public notices and minutes of the required public hearings. There is an application fee for each new TIF district and for redeterminations. By law, the Department may not certify the base if the notice, resolution procedures, and required public hearings were not timely completed. The Department has authority to determine substantial compliance with procedural requirements. Municipalities have to report to the Department total expenditures, project costs, and tax increments of terminated TIF districts. The Department and municipality establish the date when the report is due. The Department is prohibited from certifying a new or amended TIF district if territorial limits are exceeded. Town TIF district are required to submit annual financial reports to the Department.

To establish the base value, the Department determines the equalized value of each class of property within the TIF district. This information is also used to determine if the TIF district meets the territorial limits described above. Annually, the Department determines the value of the TIF district using market data, sales analysis, and assessor reports. The Department also provides forms to the municipality to determine the share of each taxing jurisdiction's levy that is allocated to the TIF district. In case of annexation, the Department redetermines the TIF district value for town created districts. Involved municipalities have to negotiate payment of outstanding TIF costs.

Given the complexity of TIF law, municipalities often seek the Department's guidance and assistance in the creation, amendment, tax increment allocation, annual certification, and

⁷ TIF districts created before 1995 can allocate positive tax increments for up to 10 years to another district that has yet to pay off its project costs.

termination of TIF districts. Thus, while the Department provides little formal oversight of the TIF law, it plays a key advisory role to municipalities.

F. ENVIRONMENTAL REMEDIATION TAX INCREMENTAL FINANCE

Since 1997, municipalities have authority to create environment remediation tax incremental finance (ER TIF) districts to recover the costs of remediation of environmental pollution. The funding mechanism is the same as other TIF districts; however, there are several differences between the two financing tools.

Whereas only cities, villages, and towns may create TIF districts, counties also have authority to create ER TIF districts. Project expenditures for ER TIF districts are limited to costs associated with environmental remediation, whereas TIF allows other types of public improvements. As a result, it is expected that ER TIF projects would be of more limited scope or size than regular TIF districts. Typical ER TIF costs include professional services associated with the investigation, containment, removal and monitoring of contaminants.

Unlike regular TIF, expenditures in an ER TIF district may be incurred prior to the creation of the district. Project expenditures in an ER TIF district must be incurred no later than 15 years after the creation of the district. Finally, the maximum life of an ER TIF district is 16 years after creation.

The Department's role in ER TIF is the same as for regular TIF districts.